

**Before the State of South Carolina
Department of Insurance**

In the matter of:

Tonya R. Gamble
202 South Farr Avenue
Andrews, South Carolina 29510

File Number 2003-118087

**Consent Order
Imposing Administrative Penalty**

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Tonya R. Gamble, a licensed South Carolina resident insurance agent.

Upon review of this matter, I hereby find as fact, that Mrs. Gamble, while licensed to do business as a resident insurance agent within the State of South Carolina for Monumental Life Insurance Company, failed to timely forward premiums received by her from various consumers to that Insurer. Mrs. Gamble acknowledges this and contends this failure resulted from inadvertence and oversight and not from any intent to avoid the requirements of the law. Nevertheless, these actions can ultimately lead to the revocation of her license to transact the business of insurance as an agent in South Carolina following a public hearing at the Administrative Law Judge Division.

Prior to the initiation of any administrative proceedings by the Department against her, Mrs. Gamble and the Department agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision, rather than to proceed toward a formal public hearing. The consensual recommendation was that Mrs. Gamble would repay the shortage to Monumental Life, waive her right to a public hearing, and immediately pay an administrative penalty through the Department in the total amount of \$1,000. In lieu of seeking to revoke Mrs. Gamble's resident insurance agent license, the Department would place her on probation for two years.

Section 38-45-140 of the South Carolina Code grants the Director of Insurance the power to revoke an insurance broker's license for violating any of South Carolina's Insurance Laws. Similarly, § 38-43-130 also provides the Director of Insurance with the authority to revoke a producer's license "when it appears that a producer has violated this title or any regulation promulgated by the Department, or has willfully deceived or dealt unjustly with the citizens of this State." Subsection (c)(4) specifically defines "deceived or dealt unjustly with the citizens of this State" as "improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business." Moreover, Regulation 69-34.1 (E)(2)(m) makes the "failure to report within seven business days the full amount of any premium collected from an applicant an unfair business practice."

After a thorough review of the record, and pursuant to my findings of fact, I hereby conclude as a matter of law, that Mrs. Tonya Gamble has violated S.C. Code Ann. § 38-43-130(c)(4) (Supp. 2002). As a result, I can now revoke her resident insurance agent license. However, under the discretionary authority provided to me within S.C. Code Ann. § 38-43-130 (Supp. 2002), and after carefully considering the recommendation of the parties, I hereby impose against Mrs. Gamble an administrative fine in the total amount of \$1,000 and place her on probation for two years. If Mrs. Gamble is found to be in violation of any of the state's insurance laws in that probationary period, her resident insurance agent license will be immediately revoked without any further disciplinary proceedings.

The parties have reached this agreement in consideration of Mrs. Gamble's assurance that in the future she will comply with the State's insurance laws. The parties expressly agree and understand that this resolution constitutes full accord and satisfaction of this matter. By her signature upon this consent order, Mrs. Gamble acknowledges that she understands that this administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2002).

Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report." S.C. Code Ann. § 38-3-110 (4) (Supp. 2002).

It is, therefore, ordered that Mrs. Gamble shall pay through the Department an administrative fine in the total amount of \$1,000 and be placed under two years probation.

It is further ordered that a copy of this consent order be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states and a copy be placed in Mrs. Gamble's licensing file.

This order becomes effective as of the date of my signature below.



Ernst N. Csiszar
Director

October 15, 2003
Columbia, South Carolina

I CONSENT:

A handwritten signature in cursive script, reading "Tonya R. Gamble". The signature is written in dark ink and is positioned above the printed name.

Tonya R. Gamble
202 South Farr Avenue
Andrews, South Carolina 29510.

Dated this 15th day of October, 2003
